

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THOMAS RANDEL HARGROVE,

Plaintiff,

v.

KENNETH QUINN, *et al.*,

Defendants.

Case No. C09-390-RSM-BAT

REPORT AND RECOMMENDATION

This is a civil rights action brought under 42 U.S.C. § 1983. On June 8, 2009, plaintiff Thomas Hargrove filed an amended complaint in this action in which he asserted three claims against seven named defendants. (*See* Dkt. No. 9.) In his first claim, plaintiff alleged that defendants Kenneth Quinn, Don McCraw, James Reese, Ed Klopfer, and Darlene Heintz “blacklist[ed]” him from prison employment in retaliation for filing prison grievances and exercising other First Amendment rights. (*Id.* at 5-6.) In his second claim, plaintiff alleged that defendants Michael Murphy and Scott Frakes unlawfully converted his private funds to public funds in order to secure an interest benefit for the state. (*Id.* at 6-7.) In his third claim, plaintiff alleged that another individual, identified only as John Doe, was transferred out of state in retaliation for participating in the institutional grievance program. (*Id.* at 7.) The third claim did

1 not identify which, if any, of the named defendants was responsible for the constitutional
2 violation alleged therein. (*Id.*)

3 On October 21, 2009, defendants Frakes and Murphy filed a motion for summary
4 judgment. (*See* Dkt. No. 27.) That motion was granted and this action was dismissed with
5 prejudice as to defendants Frakes and Murphy on July 12, 2010. (*See* Dkt. Nos. 38 and 45.)

6 On October 20, 2010, plaintiff filed a motion for voluntary dismissal of this action. (Dkt.
7 No. 58.) Plaintiff requests therein that this action be dismissed without prejudice so that he may
8 seek legal counsel to represent him with respect to his retaliation claims. (*Id.*) Defendants have
9 filed a response to plaintiff's motion in which they indicate that they have no objection to
10 plaintiff's request for voluntary dismissal. (Dkt. No. 59.)

11 As defendants do not oppose plaintiff's motion for voluntary dismissal, this Court
12 recommends that plaintiff's motion be **GRANTED** and that plaintiff's amended complaint, and
13 this action, be **DISMISSED** without prejudice as to all remaining claims.¹ A proposed Order
14 accompanies this Report and Recommendation.

15 DATED this 25th day of October, 2010.

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21 BRIAN A. TSUCHIDA
22 United States Magistrate Judge
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26 ¹ Plaintiff is advised that dismissal of this action without prejudice at this juncture will not preclude defendants from raising appropriate defenses to his claims, such as a statute of limitations defense, should he elect to pursue his claims at a later date.